

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

A.M.Q.A, *et al.*,

Plaintiffs,

v.

MONICA B. LUGO, *et al.*,

Defendants.

Case No. 1:20-cv-01556-JLT-EPG

ORDER GRANTING PLAINTIFFS'
UNOPPOSED MOTION FOR LEAVE TO FILE
PROPOSED SECOND AMENDED
COMPLAINT

(ECF Nos. 51, 58).

This matter is before the Court on Plaintiffs', A.M.Q.A, R.M.Q.A., N.M.Q.A. (1), N.M.Q.A. (2), Muneera Nasr Ali Mohamed, and Nassar Ali Abdullah Mohamed ("Plaintiffs"), motion for leave to file a proposed second amended complaint. (ECF No. 51). For the reasons stated below, the Court will grant Plaintiffs' motion for leave to file the proposed second amended complaint.

On June 6, 2022, Plaintiffs filed the instant motion for leave to amend pursuant to Federal Rule of Civil Procedure 15(a)(2). (ECF No. 51). Plaintiffs' motion attaches the proposed second amended complaint. (ECF No. 51-2). A hearing on the motion is set for August 15, 2022. (ECF No. 57). On July 15, 2022, Defendants Monica B. Lugo, USCIS Fresno Field Office, Kenneth Cuccinelli, U.S. Citizenship and Immigration Services ("USCIS"), Monica Toro, and Lynn Feldman ("Defendants") filed a response stating that Defendants "do not oppose Plaintiffs' motion to file a second amended complaint" and that they intend to file a motion to dismiss

1 should Plaintiff be granted leave to file the proposed second amended complaint. (ECF No. 58, p.
2 3).

3 Federal Rule of Civil Procedure 15(a)(2) provides that “a party may amend its pleading
4 only with the opposing party’s written consent or the court’s leave.” Rule 15(a)(2) further states
5 that “[t]he court should freely give leave when justice so requires.” Given that Defendants do not
6 oppose Plaintiffs’ motion (*See* ECF No. 58), the Court finds good cause to grant leave to file the
7 proposed second amended complaint. As such, the Court will vacate the August 15, 2022, hearing
8 on the motion.

9 Although the Court will permit amendment, nothing in this order precludes Defendants
10 from filing a motion to dismiss. Moreover, because the Court is permitting amendment and
11 Defendants intend to file a motion to dismiss, the Court will not set a scheduling conference at
12 this time and will vacate the status conference currently set for September 7, 2022. The Court will
13 reset the scheduling conference, if necessary, later in this case.

14 Accordingly, IT IS ORDERED as follows:

- 15 1. Plaintiffs’ unopposed motion for leave to amend (ECF No. 51) is granted. Plaintiffs shall
16 file their proposed amended complaint by no later than August 18, 2022.
- 17 2. The hearing on the motion (ECF No. 57) set for August 15, 2022, is vacated.
- 18 3. After the filing of the amended complaint, Defendants shall file a response within the time
19 provided by the applicable Rules.
- 20 4. Given the filing of the second amended complaint, and anticipated response, the Court
21 vacates the status conference set for September 7, 2022 (ECF No. 45) and will not set a
22 scheduling conference at this time.

23 IT IS SO ORDERED.

24 Dated: August 11, 2022

/s/ Eric P. Gray
25 UNITED STATES MAGISTRATE JUDGE
26
27
28